IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2677 OF 1991

Viredra Kumar Handa .. Petitioner.
V/s.
Additional Chief Controller,
Udyog Bhavan, New Delhi & Ors. .. Respondents.

Mr.M. Bayta for the petitioner.
Smt.N.V. Masurkar for the respondents.

CORAM : S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.

DATED : 23RD FEBRUARY, 2005.

P.C. :

Heard learned counsel for the petitioner and the respondents. Rule. Rule made returnable forthwith. The learned counsel for respondents waives service. By consent taken up for final hearing.

2. The petitioner has challenged the order dated June 11, 1991 passed by the appellate authority/Under Secretary to the Government of India whereby the original penalty of Rs.2,00,000/- has been reduced to Rs.50,000/-. In the above appellate order, the following observations would be relevant :

> "The show cause notice referred to investigations. The investigation report is

not a legal document. They submitted a copy of the judgment of Bombay High Court in the case of Collector of Central Excise V/s. Krishna Sylliquate Glass works, wherein it was made clear that if the evidence and material which was made basis of the impugned order and not disclosed to the petitioner or a reasonable opportunity was not given to rebutt the same such an order was in violation of the principles of natural justice. He further argued that he has nothing to do with whoever the licence holder has done."

3. From the above it is clear that the appellate authority has clearly come to the conclusion that the petitioner has not been afforded a reasonable opportunity to rebut the order and the order was also in violation of the principles of natural justice. If that be so obviously the entire penalty amount ought to have been set aside. The appellate authority has given absolutely no reasons for reducing the penalty amount from Rs.2,00,000/- to Rs.50,000/- and the same suffers from non-application of mind.

4. Under the aforesaid facts and circumstances, rule is made absolute in terms of prayer clause (a) and (b).

(S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)